

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JEREMY JOHN PRATT,

Defendant-Appellant.

UNPUBLISHED

April 15, 2003

No. 237762

Macomb Circuit Court

LC Nos. 1998-001650-FC;
2001-000143-FC

Before: Jansen, P.J., and Kelly and Fort Hood, JJ.

PER CURIAM.

Defendant appeals as of right his convictions of two counts of first-degree premeditated murder, MCL 750.316, entered after a jury trial, and his conviction of probation violation, entered by the court after trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

In Macomb Circuit Court Docket No. 01-000143-FC, defendant was charged with two counts of first-degree premeditated murder in the deaths of his wife Vialette and their infant daughter Natalya (DOB 6-15-00). In Macomb Circuit Court Docket No. 98-001650-FC, defendant pleaded guilty of two counts of assault with intent to commit criminal sexual conduct involving sexual penetration, MCL 750.520g(1). The trial court sentenced defendant to three years' probation, with the first six months in jail, and with credit for 115 days. Defendant was charged with violating his probation by committing first-degree murder. The charges of first-degree murder were tried to a jury, while the trial court sat as the finder of fact in a simultaneous probation violation hearing.

The evidence produced at trial showed that Vialette and Natalya died from manual and ligature strangulation. The room in which the bodies were discovered was in disarray, and the telephones in the residence were disconnected. On the morning after the killings occurred defendant visited his former girlfriend, gave her money for their son, and said goodbye to the child. Defendant, accompanied by his mother, turned himself in to the police. Defendant waived his *Miranda*¹ rights and made a statement in which he admitted that he killed Vialette and Natalya. Defendant, who was described by his mother as a passive person, admitted that he

¹ *Miranda v Arizona*, 384 US 436; 86 S Ct 1602; 16 L Ed 2d 694 (1966).

went back and forth between Vialette and Natalya and strangled them with his hands and ligatures until they died. He strangled each victim three times. Defendant could not explain why he acted as he did, and denied that he planned to kill Vialette and Natalya. Defendant acknowledged that after he killed Vialette and Natalya he went to the kitchen, retrieved a hammer, and checked to see if Vialette's sister and the sister's son had been awakened by the struggle. Defendant admitted that he disconnected the telephones.

The jury found defendant guilty of two counts of first-degree premeditated murder. At sentencing the trial court found that defendant violated his probation in the CSC case by being convicted of first-degree murder. The trial court sentenced defendant to life in prison without parole for first-degree murder, and to six years, six months to ten years' imprisonment for probation violation in the CSC case.

In reviewing a sufficiency of the evidence question, we view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could conclude that the elements of the offense were proven beyond a reasonable doubt. We do not interfere with the jury's role of determining the weight of the evidence or the credibility of witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992); *People v Milstead*, 250 Mich App 391, 404; 648 NW2d 648 (2002). A trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

In order to convict a defendant of first-degree premeditated murder, the prosecution must prove that the defendant intentionally killed the victim, and that the killing was premeditated and deliberate. Premeditation and deliberation require sufficient time for the defendant to take a second look at his actions. *People v Schollaert*, 194 Mich App 158, 170; 486 NW2d 312 (1992). The length of time necessary for a second look is not capable of precise determination. There need be only some interval in which a second look can be taken. *People v Furman*, 158 Mich App 302, 308; 404 NW2d 246 (1987). The elements of premeditation and deliberation may be inferred from the circumstances surrounding the killing. Premeditation may be established through evidence of the following factors: (1) the prior relationship of the parties; (2) the defendant's actions before the killing; (3) the circumstances of the killing itself; and (4) the defendant's actions after the killing. *People v Anderson*, 209 Mich App 527, 537; 531 NW2d 780 (1995).

The prosecution has the burden of proving a probation violation by a preponderance of the evidence. MCR 6.445(E)(1); *People v Reynolds*, 195 Mich App 182, 184; 489 NW2d 128 (1992).

Defendant acknowledges that the evidence established that he killed Vialette and Natalya; however, he argues that the evidence was insufficient to support his convictions of first-degree murder and probation violation because the evidence did not demonstrate premeditation and deliberation. We disagree and affirm defendant's convictions of first-degree murder and probation violation. The evidence showed that Vialette and Natalya were killed by manual and ligature strangulation. Defendant admitted that he strangled the victims with both his hands and ligatures, and that he moved back and forth and strangled each victim three times. Under such circumstances, a person would have a sufficient opportunity to take a second look at his actions.

People v Johnson, 460 Mich 720, 733; 597 NW2d 73 (1999); *Furman, supra*. The evidence that defendant retrieved a hammer and checked to determine if Vialette's sister or her sister's son had been disturbed by the struggle supported an inference that defendant understood that he had committed murder and was prepared to kill again to avoid immediate detection. The evidence that defendant disconnected the telephones also supported an inference that he wanted to avoid detection. After the killings defendant gave money to the mother of his son and said goodbye to the child, and then voluntarily turned himself in to the police. Defendant asked the police when the bodies were discovered. This evidence supported an inference that defendant understood the criminal nature of his actions. The circumstances surrounding the killings supported an inference that defendant premeditated the killings and deliberately carried them out. *Schollaert, supra*; *Furman, supra*; *Anderson, supra*. Viewed in a light most favorable to the prosecution, the evidence supported defendant's convictions of first-degree murder. *Wolfe, supra*. The evidence also supported defendant's conviction of probation violation. MCR 6.445(E)(1); *Reynolds, supra*.

Affirmed.

/s/ Kathleen Jansen
/s/ Kirsten Frank Kelly
/s/ Karen M. Fort Hood